IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 11031 of 2002

with

SPECIAL CIVIL APPLICATION No 11398 of 2002

For Approval and Signature:

Hon'ble MR.JUSTICE JAYANT PATEL

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : YES

2. To be referred to the Reporter or not? : YES

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the concerned Magistrate/Magistrates,Judge/Judges,Tribunal/Tribunals? : NO

RAJUBHAI K PATEL

Versus

STATE OF GUJARAT

Appearance:

1. Special Civil Application No. 11031 of 2002
   MR ARVIND C NAIK for Petitioner No. 1
   MS DS PANDIT A.G.P. for Respondent No. 1-2
   NOTICE SERVED for Respondent No. 3
2. Special Civil Application No. 11398 of 2002
   MR ARVIND C NAIK for Petitioner No. 1
   MS DS PANDIT A.G.P. for Respondent No. 1

CORAM : MR.JUSTICE JAYANT PATEL

Date of decision: 25/04/2003

ORAL JUDGEMENT

With the consent of Mr.Naik as well as learned A.G.P. Ms.Pandit, both these matters are taken up for final hearing today.

2. The short facts of the case are that the petitioners were allotted a plot of land by the Government authority and thereafter, it was found by the authority that the allotment was not as per the Government policy and norms and the allotment made to the petitioners were cancelled. The petitioners challenged the said decision to cancel the allotment. However, as per the order dated 01.04.2002 passed by this Court (Coram : M.S. Shah, J.) in Special Civil Application no.12121/2001, the said challenge was not accepted but at that time the petitioners raised one additional contention that one Ramilaben Solanki was granted land at a market price and the petitioner is also ready to purchase the land at a market price and, therefore, the Court observed that the petitioner may make a representation for such purpose. The representation was, thereafter, made by the petitioner which ultimately came to be rejected. As per the decision dated 30.09.2002 of the Collector whereby the petitioner is communicated that at present there is no policy of the Government to dispose of the property at Saputara hill station and, therefore, the request of the petitioner to allot land at a market price is not accepted. Under these circumstances, the present petition.

3. As such, in view of the aforesaid facts and circumstances, it cannot be said that the petitioner has any enforceable right to assert that the Government must dispose of the property at a market price to the petitioner. At the most, the petitioner may apply for allotment of the land as and when the Government takes decision for disposal of the property by public auction or otherwise and, therefore, in my view, the decision of the Collector of rejecting the representation cannot be said to unreasonable or arbitrary since it is a matter of policy decision of the Government not to dispose of the property at Saputara.

Mr.Naik raised the contention regarding discrimination that one Ramilaben Solanki was granted such land. It may be that at the relevant point of time, the policy of the Government was providing for such

allotment and, thereafter, when it has come on record that there is no such policy of the Government or allotment of such land is in contravention of the prevailing policy of the Government, the Collector would be justified in rejecting the request for allotment for such land in view of the change in policy and if the policy is changed it cannot be said that a ground is made out for discrimination. Even otherwise, also in the matter of allotment of the land, it would depend upon the policy of the Government prevailing from time to time and, therefore, it cannot be asserted as a right that the land must be allotted to a citizen at a particular price. At the most, as and when the Government decides to dispose of the property everybody should have the equal right to participate in purchasing the said land in accordance with law and, therefore, the said contention of Mr.Naik on the ground of discrimination in my view, is not tenable and hence, rejected.

4. In view of the aforesaid discussion, the petitions do not have any merit and, therefore, the same are rejected accordingly with the observation that as and when the Government takes decision to dispose of the property by public auction at Saputara hill station, it will be open to the concerned petitioner to apply in accordance with law. Rule is discharged accordingly. No costs. Interim relief if any, stands vacated.

[JAYANT PATEL, J.]

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